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EXAMINER	
WHIPPLE, BRIAN P	

ART UNIT	PAPER NUMBER
2452	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/760,975	WALTER ET AL.	
	Examiner	Art Unit	
	BRIAN P. WHIPPLE	2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 February 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/17/10 and 3/24/10*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-38 are pending in this application and presented for examination.

Response to Arguments

2. Applicant's arguments with respect to claims 1-38 have been considered, but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. As to claim 1, the phrases "so that" and "so as" render the claim indefinite because it is unclear whether the limitations following the phrases are part of the claimed invention. See MPEP § 2111.04. Specifically, the following quotation is relevant:

> In Hoffer v. Microsoft Corp., 405 F.3d 1326, 1329, 74 USPQ2d 1481, 1483 (Fed. Cir. 2005), the court held that when a "whereby' clause states a condition that is material to patentability, it cannot be ignored in

> order to change the substance of the invention." Id. However, the court noted (quoting Minton v. Nat'l Ass 'n of Securities Dealers, Inc., 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)) that a "whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited." Id.

The use of "so that" and "so as" in the claim raises a question of intended result, as described in the quotation above. For example, the "creating, by a pixel array generator of the sender, a custom graphical emoticon..." limitation lays out a positively recited process step of creating a custom graphical emoticon. The remaining language following the use of the phrase "so that" in the limitation may be viewed as an intended result of creating a custom graphical emoticon.

The same is true of the "assigning the character sequence..." limitation.

Appropriate correction or clarification is required.

6. As to claims 2-13, the claims are rejected due to their dependency on, and inclusion of, the rejected subject matter of claim 1.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 30-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. As to claim 30, the computer readable storage medium containing instructions may be interpreted as non-statutory transitory medium. For example, recent guidelines indicate a storage medium may be viewed as a carrier wave or signal that temporarily stores instructions as they are transmitted from a transmitting point to a receiving point. Recent guidelines suggest amending the claim to be directed to a "non-transitory" computer readable storage medium.

10. As to claims 31-36, the claims are rejected due to their dependency on, and inclusion of, the rejected subject matter of claim 30 above.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 1-4, 6-7, 11-14, 17, 21, 23-25, 30-31, 33, and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes et al. (Heikes), U.S. Publication No. 2003/0225847 A1, in view of Danker et al. (Danker), U.S. Publication No. 2002/0184309 A1.

13. As to claim 1, Heikes discloses selecting, by a user via a user-input device of a sender (Fig. 2; [0032]; [0036]; [0055], ln. 1-3; [0057]; the IM sender system utilizes input devices as shown in Fig. 2 to select wallpaper available from the IM host system), a still image that includes a single array grid of pixels (Fig. 7; the wallpaper is shown to be a still image), wherein the still image is not part of an existing character set stored on the sender ([0059]; the wallpaper selection is sent from the IM host system to the IM sender system);

creating, by a pixel array generator of the sender, a custom graphical emoticon so that the still image is used as the custom graphical image (Fig. 7, the wallpaper is shown to be a still image and the wallpaper may be interpreted as an emoticon in that the display of artwork of a wallpaper may indicate the emotions of the user who selected the wallpaper; [0060], ln. 6-7, "the wallpaper may include one or more flags to indicate, for example, if the wallpaper is a custom item; [0068], "the IM sender may provide a custom smiley theme");

obtaining a character sequence from the user via the user-input device of the sender (Fig. 8, the emoticons are displayed with the associated character sequences; Fig. 11, the users input character sequences in order to engage in conversation);

assigning the character sequence to the custom graphical emoticon, the character sequence representing the custom graphical emoticon so as to act as a placeholder for the custom graphical emoticon (Fig. 8, the emoticons are displayed with the associated character sequences; [0068], "the IM sender may provide a custom smiley theme");

obtaining a message from the user via the user-input device of the sender (Fig. 11, the users input messages in order to engage in conversation);

transmitting the message from the sender to a destination via a message-transmission modality of transmission (Fig. 11, the users input messages in order to engage in conversation; [0086]);

separately from the transmitting of the message, sending the custom graphical emoticon to the destination via a different modality of transmission than the message-transmission modality of transmission ([0075], ln. 3-12, the IM sender system may indicate a wallpaper, but not actually include it in the IM message, thereafter the IM recipient obtains the wallpaper separately).

Heikes is silent on the message including textual content with the emoticon-placeholding character sequence embedded therein;

the transmitted message including the textual content with the emoticon-placeholding character embedded therein.

However, Danker discloses the message including textual content with the emoticon-placeholding character sequence embedded therein (Fig. 6B; [0016]; [0075]);

the transmitted message including the textual content with the emoticon-placeholding character embedded therein (Fig. 6B; [0016]; [0075]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes in the aforementioned manner as taught by Danker in order to indicate emotions with character sequences while replacing the sequences themselves with more indicative graphical expressions in areas such as the conversation window or in an area near the user's screen name.

14. As to claim 2, Heikes and Danker disclose the invention substantially as in parent claim 1, wherein the obtaining of the character sequence limits the character sequence to have characters less than or equal to seven (Heikes: Fig. 8, all character sequences are shown to be less than seven characters; additionally, the limit of seven characters is a mere design choice and provides the claim with no patentable weight beyond the existing claim language).

15. As to claim 3, Heikes and Danker disclose the invention substantially as in parent claim 1, wherein the single array grid of the custom graphical emoticon comprises a pre-

determined sized pixel array grid (Heikes: Fig. 7; the wallpaper is shown to be a still image; [0060], "The wallpaper may further include information concerning its size. The wallpaper may be in a predetermined format and may be of a predetermined length.").

16. As to claim 4, Heikes and Danker disclose the invention substantially as in parent claim 1, wherein the message-transmission modality of transmission includes text-messaging (Heikes: Fig. 11, the users input messages comprising text in order to engage in conversation; [0086]).

17. As to claim 6, Heikes and Danker disclose the invention substantially as in parent claim 1, further comprising:

receiving a request from the destination for the custom graphical emoticon (Heikes: Fig. 2; [0032]; [0036]; [0055], ln. 1-3; [0057]);

in response to the request, performing the sending of the custom graphical emoticon to the destination (Heikes: [0059]).

18. As to claim 7, the claim is rejected for reasons similar to claim 6 above.

The transmission of an image such as wallpaper via network communications indicates the image is, or is contained in, a portable network graphics file.

19. As to claim 11, the claim is rejected for reasons similar to claims 1 and 7 above.

20. As to claim 12, the claim is rejected for reasons similar to claim 4 above.

21. As to claim 13, Heikes and Danker disclose the invention substantially as in parent claim 1, wherein the message-transmission modality of transmission is limited to the textual content only (Heikes: [0075], ln. 3-12, the IM sender system may indicate a wallpaper, but not actually include it in the IM message, thereafter the IM recipient obtains the wallpaper separately; Danker: [0016]; [0026], "entering text characters using limited input devices").

22. As to claim 14, Heikes discloses a method comprising:

receiving a communication by a message receiver (Fig. 11, the users input messages in order to engage in conversation), wherein the communication includes a character sequence in a text message (Fig. 8, the emoticons are displayed with the associated character sequences; Fig. 11, the users input character sequences in order to engage in conversation), wherein the character sequence is mappable to an array grid of pixels residing outside the communication (Fig. 8, the emoticons are displayed with the associated character sequences; [0068], "the IM sender may provide a custom smiley theme").

Heikes is silent on retrieving the array grid of pixels using the character sequence; replacing the character sequence within the text message in the communication with the array grid of pixels;

displaying the array grid of pixels and the text message on a screen, the array grid of pixels being displayed within the text message in place of the character sequence.

However, Danker discloses retrieving the array grid of pixels using the character sequence (Fig. 6B; [0016]; [0075]);

replacing the character sequence within the text message in the communication with the array grid of pixels (Fig. 6B; [0016]; [0075])

displaying the array grid of pixels and the text message on a screen, the array grid of pixels being displayed within the text message in place of the character sequence (Fig. 4; Fig. 6B; [0016]; [0075]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes in the aforementioned manner as taught by Danker in order to indicate emotions with character sequences while replacing the sequences themselves with more indicative graphical expressions in areas such as the conversation window or in an area near the user's screen name.

23. As to claim 17, Heikes and Danker disclose the invention substantially as in parent claim 14, wherein the retrieving further includes mapping to a local storage medium to determine if the array grid of pixels has been previously stored in the local storage medium (Heikes: [0058] – [0059]).

24. As to claim 21, the claim is rejected for reasons similar to claims 1 and 14 above.

25. As to claim 23, the claim is rejected for reasons similar to claims 1 and 14 above.

26. As to claim 24, the claim is rejected for reasons similar to claim 1 above.

The obtaining of the wallpaper by the IM sender system was disclosed to be an earlier, separate step (Heikes: Fig. 2; [0032]; [0036]; [0055], ln. 1-3; [0057]; the IM sender system utilizes input devices as shown in Fig. 2 to select wallpaper available from the IM host system). Whereas the actual sending of the wallpaper was shown to be a subsequent step with an IM recipient (Heikes: ([0075]).

27. As to claim 25, the claim is rejected for reasons similar to claims 11 and 24 above.

28. As to claim 30, the claim is rejected for reasons similar to claims 1, 14 and 24 above.

29. As to claim 31, Heikes and Danker disclose the invention substantially as in parent claim 30, wherein the character sequence allows real-time mapping to the custom graphical emoticon (Heikes: Fig. 8, the emoticons are displayed with the associated character sequences; Danker: [0009]).

30. As to claim 33, the claim is rejected for reasons similar to claims 24 and 31 above.

31. As to claim 35, the claim is rejected for reasons similar to claim 6 above.

32. As to claim 36, the claim is rejected for reasons similar to claim 11 above.

33. Claims 5, 26, 28-29, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes and Danker as applied to claims 1, 23, and 30 above, and further in view of Chodor et al. (Chodor), U.S. Publication No. 2002/0036990 A1.

34. As to claim 5, Heikes and Danker do not explicitly disclose the parsing of the character sequence into an object name for the custom graphical emoticon, wherein the

object name includes a globally unique identifier of the custom graphical emoticon and a location of the custom graphical emoticon in an emoticon object store in the sender.

However, Heikes and Danker do disclose the mapping of a character sequence to a corresponding emoticon as discussed above. This is accomplished by the receiving system parsing received messages for word strings and emoticon strings, also discussed above. Therefore, at the very least, Heikes and Danker must extract an object name for the custom graphical emoticon. This is because Heikes and Danker parse text messages for emoticon strings and substitute corresponding emoticons for the emoticon strings. In order to identify the association between an emoticon string and a corresponding emoticon, after the parsing of the text message for the emoticon string, the corresponding emoticon must be identified and therefore an object name clearly exists for the emoticon.

Clearly, the text-to-emoticon system has means for receiving an emoticon string, identifying a corresponding emoticon, and displaying this emoticon to the end user. In order to do so, the emoticon must contain a mapping to the emoticon string, and the emoticon must be located in the system, and displayed appropriately. This requires that actions identical or similar to the ones claimed be performed.

Additionally, even if Applicant is to argue that Heikes and Danker do not disclose the object name includes an identifier of the custom graphical emoticon and a location of the custom graphical emoticon, this is known in the art, as is shown by Chodor. An example of a

character sequence that is parsed for an object name that includes an identifier of pixel emoticon set and a location of pixel emoticon set would be a URL that corresponds to an image.

Chodor discloses the parsing of the character sequence into an object name for the custom graphical emoticon ([0081]), wherein the object name includes a globally unique identifier of the custom graphical emoticon and a location of the custom graphical emoticon set in an emoticon object store in the sender ([0082]). Examiner notes that Chodor does not need to disclose the parsing of the character sequence into an object name, as this is inherent to Heikes and Danker as discussed above.

Text messages are known in the art to be parsed for text corresponding to a URL and translated into a corresponding hyperlink. Additionally, a user copying and entering the URL received in the email message would have the text parsed by a web browser when entered into the address field. Furthermore, the URL in Chodor includes both a picture identifier of 9897 and a location, as the URL itself leads to the location of the image.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes and Danker in the aforementioned manner as taught by Chodor in order to identify images and their locations to a user/system so that the user/system may access and view the corresponding image.

35. As to claims 26 and 32, the claims are rejected for reasons similar to claim 5 above.

36. As to claims 28-29, the claims are rejected for reasons similar to claim 11 above.

37. Claims 8-10, 15-16, 27, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes and Danker, in view of Chodor, and further in view of Hickman et al. (Hickman), U.S. Patent No. 7,013,327 B1.

38. As to claim 8, the claim is rejected for reasons similar to claims 1 and 5 above.

Heikes and Danker disclose parsing the character sequence into an identifier and a location of the custom graphical emoticon as discussed for claim 5 above. Heikes and Danker disclose the message that includes the textual content with the emoticon-placeholding character sequence embedded therein as discussed for claim 1 above. Additionally, Chodor discloses the identifier and location being included in a message, in that Chodor disclosed a URL being included in a message and the URL including the identifier and the location of the corresponding image ([0080], ln. 29-32; [0081]; [0082]).

Accordingly, Heikes, Danker, and Chodor are merely silent on storing the identifier and the location in a header.

However, Hickman discloses storing an identifier and a location in the header of a message (Fig. 22A; Col. 18, ln. 45-48).

The combination of Heikes, Danker, Chodor, and Hickman results in an obvious combination to one of ordinary skill in the art at the time of the invention that would result in the claimed subject matter of claim 8. Namely, Chodor discloses that a URL includes an identifier and a location of the corresponding file. Hickman goes on to disclose that a header may include a reference to the URL itself for display to an end user. Therefore, the combination of Chodor and Hickman would lead to the obvious conclusion that a webpage may be created that includes an image and a header identifying the URL of the webpage, the URL including an identifier and a location. The message, i.e. the webpage, includes the character sequence itself, i.e. the URL.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes, Danker, and Chodor by including the identifier and the location in the header of the message that includes the character sequence as taught by Hickman in order to display the identifier and the location, that is the URL, to the end user in the webpage itself so as to provide easy access to it.

39. As to claim 9, the claim is rejected for reasons similar to claim 5 above.

Claim 5 includes a limitation indicating the object name includes the identifier and the location. The rejection of claim 5 above showed that the object name may be separated into parts indicating the identifier and the location. So the identifier and the location are parts of an object name for the custom graphical emoticon.

40. As to claim 10, the claim is rejected for reasons similar to claims 5 and 8 above.

The object name was shown to comprise the identifier and the location in the rejection of claim 5 above, and as discussed for claim 9 above. Additionally, the inclusion of the identifier and the location in the header of a message was discussed in the rejection of claim 8 above.

41. As to claims 15 and 34, the claims are rejected for reasons similar to claim 8 above.

42. As to claim 16, the claim is rejected for reasons similar to claim 9 above.

43. As to claim 27, the claim is rejected for reasons similar to claim 10 above.

44. Claims 8-10, 15-16, 27, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes and Danker, in view of Chodor, and further in view of Dawson, U.S. Patent No. 6,252,588 B1.

45. As to claim 8, as opposed to Hickman, alternatively Dawson discloses storing an identifier and a location in the header of a message. Dawson may be interpreted as being more relevant to the disclosure of the instant application as Dawson parses a received email message header for an image and then displays the image to the recipient of the message (Col. 20, ln. 56-61). In other words, the character sequence (that is the file name/path identifying the image) in the header is translated into a corresponding image by Dawson. This is analogous to the instant application in that a character sequence is also translated into an image (a graphical emoticon).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes, Danker, and Chodor by including the identifier and the location in the header of the message as taught by Dawson in order to parse the header to identifying the identifier and the location of a corresponding image and display the image to the end user. Including this in the header as opposed to the body of the message, leads to quicker access to the corresponding image, as the body of the message need not be examined as part of the process. This is more efficient, as the header is typically relatively

small and limited in size, as opposed to the body which may be much larger and thus take more time to examine than the header.

46. As to claim 9, the claim is rejected for reasons similar to claim 5 above.

Claim 5 includes a limitation indicating the object name includes the identifier and the location. The rejection of claim 5 above showed that the object name may be separated into parts indicating the identifier and the location. So the identifier and the location are parts of an object name for the emoticon.

47. As to claim 10, the claim is rejected for reasons similar to claims 5 and 8 above.

The object name was shown to comprise the identifier and the location in the rejection of claim 5 above, and as discussed for claim 9 above. Additionally, the inclusion of the identifier and the location in the header of a message was discussed in the rejection of claim 8 above.

48. As to claims 15 and 34, the claims are rejected for reasons similar to claim 8 above.

49. As to claim 16, the claim is rejected for reasons similar to claim 9 above.

50. As to claim 27, the claim is rejected for reasons similar to claim 10 above.

51. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes and Danker as applied to claim 17 above, and further in view of Goodwin, III et al. (Goodwin), U.S. Publication No. 2002/0065931 A1.

52. As to claim 18, Heikes and Danker disclose the invention substantially as in parent claim 17, but are silent on the local storage medium comprises a cache of temporary files used by a web browser.

However, this is one of the most well known uses of caching in the field. Goodwin discloses using a local storage medium comprising cache of temporary files to be used by a web browser ([0005], ln. 1-6).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes and Danker by caching temporary files used by a web browser as taught by Goodwin so that the same content need not be downloaded again the next time the web content is accessed (Goodwin: [0005], ln. 1-6).

53. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes and Danker as applied to claim 14 above, in view of Goldschneider et al. (Goldschneider), U.S.

Publication No. 2002/0107925 A1, and further in view of Huntington et al. (Huntington), U.S. Publication No. 2003/0131098 A1.

54. As to claim 19, Heikes and Danker disclose the invention substantially as in parent claim 14, including checking for the array grid of pixels on a local storage medium (see the rejection of claim 17 above), but are silent on if the array grid of pixels is not located in the local storage medium, then attempting to establish a direct link with a sender of the communication to retrieve the array grid of pixels from a storage medium associated with the sender; and

if a direct link to the sender cannot be established, then retrieving the array grid of pixels through a server between the sender of the communication and the receiver of the communication.

However, Goldschneider discloses if a file is not located in local storage medium, then attempting to establish a direct link with a sender of a communication to retrieve the array grid of pixels from a storage medium associated with the sender ([0032]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes and Danker by enabling a receiver to request retransmission of a file as taught by Goldschneider in order to allow a receiver to receive a file that was either lost or never received properly.

Heikes, Danker, and Goldschneider are silent on if a direct link to the sender cannot be established, then retrieving the array grid of pixels through a server between the sender of the communication and the receiver of the communication.

However, Huntington discloses if a direct link to a sender cannot be established, then retrieving a file through a server between the sender of a communication and a receiver of the communication ([0203]).

Huntington teaches a method by which content unavailable from the intended sender can instead be sent from a cache server.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes, Danker, and Goldschneider by acquiring content from a cache server if access to the original sender cannot be established as taught by Huntington in order to access content from a cache server even when the original sender cannot properly send the requested content (Huntington: [0203]).

55. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes, Danker, Goldschneider, and Huntington as applied to claim 19 above, and further in view of Zhao, U.S. Patent No. 7,353,253 B1.

56. As to claim 20, Heikes, Danker, Goldschneider, and Huntington describe the invention substantially as in parent claim 19, but are silent on a direct link using a peer-to-peer connection using one of TCP or UDP.

However, Zhao discloses a direct link using a peer-to-peer connection using UDP (Fig. 1; Col. 6, ln. 37-39 and 42-48).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes, Danker, Goldschneider, and Huntington by including a direct link using a peer-to-peer connection using UDP as taught by Zhao in order to avoid the extra processing required in a client-server model (Col. 6, ln. 42-48) and in order to take advantage of the bandwidth consumption efficiency of the UDP multicast form of delivery (Col. 6, ln. 42-48).

57. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes and Danker as applied to claim 21 above, and further in view of Official Notice (See MPEP 2144.03).

58. As to claim 22, Heikes and Danker disclose the invention substantially as in parent claim 21, but do not explicitly teach adapting images of various sizes and formats to a pixel

array format of predetermined size, for use as the graphics data of emoticons ("for use as the graphics data of emoticons" is intended use and therefore not given weight).

Official Notice (see MPEP 2144.03) is taken that adapting images of various sizes and formats to a pixel array format of predetermined size was well known in the art at the time of the invention.

Applicant fails to disclose the step as occurring automatically. Methods for conforming to a requirement for pixel dimensions such as a user cropping and/or shrinking an image prior to use (such as the requirement for buddy icons to meet pixel dimension requirements or an emoticon to meet the required 19 x 19 pixel grid limitation as discussed for claim 3 above) were well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Heikes and Danker by adapting images of various sizes and formats to a pixel array format of predetermined size to get this well-known feature.

59. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes, Danker, Chodor, and Hickman.

60. As to claim 37, the claim is rejected for reasons similar to claims 1, 5, 8, and 31 above.

The bulk of claim 37's steps such as creating of an emoticon by a sender, storing and transferring the emoticon, mapping of a character sequence, etc. correspond to actions rejected for claim 1 above. The language related to the object store and object name correspond to claim 5 above. The language related to the header corresponds to claim 8 above. The real-time nature of the steps corresponds to claim 31 above.

61. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes, Danker, Hickman, Goldschneider, and Huntington.

62. As to claim 38, the claim is rejected for reasons similar to claims 1, 15, 17, and 19 above.

The steps related to the receiving of text messages and custom emoticons correspond to the actions rejected for claim 1 above. The language related to the header corresponds to claim 15 above. The language related to the determination if the emoticon is stored in a local storage medium and the subsequent steps corresponds to claims 17 and 19, respectively.

63. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heikes, Danker, Dawson, Goldschneider, and Huntington.

64. As to claim 38, the claim is rejected for reasons similar to claims 1, 15, 17, and 19 above.

The steps related to the receiving of text messages and custom emoticons correspond to the actions rejected for claim 1 above. The language related to the header corresponds to claim 15 above. The language related to the determination if the emoticon is stored in a local storage medium and the subsequent steps corresponds to claims 17 and 19, respectively.

Conclusion

65. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN P. WHIPPLE whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Fri (8:30 AM to 5:00 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571-272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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7/14/10

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